

ABRAMS FENSTERMAN, LLP

Seth L. Berman, Esq. (*admitted pro hac vice*)

sberman@abramslaw.com

3 Dakota Drive, Suite 300

Lake Success, NY 11042

Telephone: 516.328.2300

Facsimile: 516.328.6638

HEFNER STARK & MAROIS, LLP

Thomas P. Griffin Jr., Esq. (SBN 155133)

tgriffin@hsmlaw.com

2150 River Plaza Drive, Suite 450

Sacramento, CA 95833

Telephone: 916.925.6620

Facsimile: 916.925.1127

Attorneys for Plaintiff YELLOWCAKE, INC., and Counterdefendants
YELLOWCAKE, INC., COLONIZE MEDIA, INC., and JOSE DAVID
HERNANDEZ

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

YELLOWCAKE, INC., a California
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No.: 1:20-cv-00988-JLT-BAM

**DECLARATION OF SETH L.
BERMAN IN OPPOSITION TO
DEFENDANTS RULE 56 MOTION
FOR SUMMARY JUDGMENT AND
SUMMARY ADJUDICATION**

Judge: Hon. Jennifer L. Thurston
Date: August 4, 2023
Courtroom: Courtroom 4, 7th floor

1 HYPHY MUSIC, INC.,)
 2)
 3 Counterclaimant,)
 4)
 5 v.)
 6)
 7 YELLOWCAKE, INC., A CALIFORNIA)
 8 CORPORATION; COLONIZE MEDIA,)
 9 INC.; JOSE DAVID HERNANDEZ; and)
 10 JESUS CHAVEZ SR,)
 11 Counterdefendants.)

11 SETH L. BERMAN, declares as follows:

12 1. I am a partner in the law firm of Abrams Fensterman, LLP and I am
 13 admitted *pro hac vice* in connection with this matter to practice before this Court.
 14 (ECF 6). I am counsel of record for Plaintiff Yellowcake, Inc. (“Yellowcake” or
 15 “Plaintiff”) and Counterdefendants Yellowcake, Colonize Media, Inc., (“Colonize”)
 16 and Jose David Hernandez (“Hernandez”), and as such, I have personal knowledge of
 17 the facts and circumstances in this matter.

18 2. This declaration is being submitted in opposition to the motion by the
 19 defendant, Hyphy Music, Inc. (“Hyphy”), for Summary Judgment and Summary
 20 Adjudication pursuant to Federal Rule of Civil Procedure 56.

21 3. This declaration is based upon my personal knowledge obtained as
 22 attorney for Yellowcake and Colonize, as well as the Exhibits annexed hereto, the
 23 accompanying Memorandum of Points and Authorities, and all prior pleadings and
 24 proceedings had herein.

25 **FACTS & EXHIBITS**

26 4. For the sake of brevity and judicial economy, the undersigned restates the
 27 facts set forth in the Statement of Uncontested Facts (Dkt. 82-18), Memorandum of
 28 Points and Authorities (Dkt. 82) and Declarations of Kevin Berger (Dkt. 82-14) and

1 Jose David Hernandez (Dkt. 82-16), all of which were previously filed in support of
2 Yellowcake, Colonize and Hernandez's Motion for Summary Judgment and Summary
3 Adjudication, and incorporates them as if fully set forth herein.¹

4 5. Attached hereto as Exhibits are true and correct copies of the documents
5 referenced in Yellowcake's opposition to Hyphy's Motion for Summary Judgment
6 submitted herewith.

7 6. Attached hereto as **Exhibit "A"** is a copy of excerpts from the deposition
8 transcript of Jose Martinez dated July 26, 2022.

9 **WHEREFORE**, the undersigned respectfully requests that this Court deny
10 Hyphy's motion for Summary Judgment and Summary Adjudication pursuant to
11 Federal Rule of Civil Procedure 56, together with such other and further relief as this
12 Court deems just and proper.

13 I declare under penalty of perjury under the laws of the United States that the
14 foregoing is true and correct.

15 Dated: August 4, 2023

Respectfully submitted,

16 **ABRAMS FENSTERMAN, LLP**

17 By: /s/ Seth L. Berman
18 Seth L. Berman, Esq. (*admitted pro hac vice*)
19 ***Attorneys for Plaintiff Yellowcake, Inc., and***
20 ***Counterdefendants Colonize Media, Inc., and***
21 ***Jose David Hernandez***

22
23
24
25
26
27
28 1 All capitalized yet undefined terms used herein have the same meaning ascribed to them in the Statement of
Uncontested Facts (Dkt. 82-18).